

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**VS.**

**JESSE JAMES JURA,**

**Defendant.**

**CASE NO. 8:05CR125**

# MEMORANDUM AND ORDER

This matter is before the Court on the Report and Recommendation (Filing No. 32) issued by Magistrate Judge Thomas D. Thalken recommending denial of the Defendant's motion to suppress (Filing No. 22). No objections have been filed to the Report and Recommendation as allowed by 28 U.S.C. § 636(b)(1)(C) and NECrimR 57.3(a).

The Defendant seeks an order suppressing evidence seized from the Defendant's residence, his person, or statements made on or about January 18, 2005. The Defendant argues several issues on the face of the motion. However, considering the transcript of the hearing, the primary arguments are that the search warrant affidavit lacked probable cause and the information in the affidavit was stale. Judge Thalken determined: the affidavit contained sufficient probable cause for issuance of the search warrant; the information in the affidavit was not stale; and even if the affidavit lacked probable cause, the *Leon* good faith exception would apply and allow the admissibility of the seized evidence, as none of the exceptions to the good faith exception apply.

Notwithstanding the absence of objections, pursuant to 28 U.S.C. § 636(b)(1)(C) and NECrimR 57.3, the Court has conducted a de novo review of the record. The Court has read the Defendant's brief (Filing No. 23) and the transcript (Filing No. 34). The Court

has also viewed the evidence. (Filing No. 31.) Because Judge Thalken fully, carefully, and correctly applied the law to the facts, the Court adopts the Report and Recommendation in its entirety.

IT IS ORDERED:

1. The Magistrate Judge's Report and Recommendation (Filing No. 32) is adopted in its entirety; and
2. The Defendant's motion to suppress (Filing No. 22) is denied.

DATED this 23<sup>rd</sup> day of June, 2005.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge